

**Testimony of Lorry S.C. Brown
On Behalf of the Michigan Poverty Law Program (MPLP)**

**House Committee on Financial Services
Senate Bill 578**

Chairman Forlini and members of the House Committee on Financial Services. Thank you for the opportunity to testify regarding Senate Bill 578. I am Lorry Brown, the statewide consumer law attorney at Michigan Poverty Law Program. Michigan Poverty Law Program (MPLP) is the statewide support office for legal services programs. MPLP advocates on behalf of the state's low-income population on issues in the areas of low-income housing, family law, consumer protections, and foreclosure prevention.

Senate Bill 578 proposes to eliminate a requirement that lenders distribute a 1 page document entitled "Borrowers' Bill of Rights" to persons taking out certain loans. The Bill of Rights says to the borrower, in part, that before taking out a loan you have the right to shop around for your loan and compare charges; the right to find out what fees are included in the loan; the right to find out how your broker is being paid and how much he is being paid; the right not to be discriminated against in credit decision; the right to know the reason why your loan is being denied; etc. Including in these rights, is also the right to receive the HUD settlement booklet which is the predecessor to the current CFPB booklet or toolkit.

The bill proposes to eliminate the list of rights and only requires that the lender distributes the CFPB special booklet as required under the Real Estate Settlement Procedures Act. Given that this bill will curtail consumers' rights, the Michigan Poverty Law Program opposes it.

It is important to reflect on why the Michigan Legislature enacted the Consumer Mortgage Protection Act that included the Bill of Rights in 2002. This was Michigan's response to the widespread problem of predatory lending and fraudulent lending practices.

We all know that what followed was the foreclosure crisis, investigations by the federal and state attorneys general into the lending practices of the industry. Most of these investigations revealed predatory and fraudulent practices in the industry. The major mortgage settlements over the last few years support this.

At that time, the state and federal responses were to set up a system to protect consumers and curb the abuses. One of the many responses was focused on educating the consumers about their rights. Nothing has changed to make it now unnecessary to educate the consumers about their rights when taking out a loan.

I understand that the argument in support of this bill is that the CFPB Booklet addresses those concerns so the Bill of Rights document is unnecessary and is duplicative.

To the contrary, there are clearly items in the Bill of Rights that are not covered by the CFPB booklet. For example, the CFPB Booklet does not cover expressly the right to a credit decision that is not based on the borrower's race, color, religion, sex, marital status, income, etc and the right to know the reason if the loan application is denied. Granted, the Bill of Rights should be updated to reflect the changes in the new mortgage loan documents under the CFPB rules. But the Bill of Rights is clearly not redundant.

Further, there is a fundamental difference between the Bill of Rights and the CFPB Booklet. The CFPB booklet is designed for the borrower's self-education. It tells the borrower how to figure out certain standards and calculations. The design and intent of the Bill of Rights is different. It tells the borrower in plain terms that the borrower has the right to ask the lender for certain information and the lender has to provide it. These are different functions. In fact, the Bill of Rights and the CFPB Booklet complement each other. The Bill of Rights encourages the borrower to ask the lender for information. The CFPB Booklet helps the borrower to analyze the information. After looking at the CFPB Booklet, the borrower may have more questions and need information. The Bill of Rights tells the borrower about the right to get this information from the lender.

I should also note that the CFPB Booklet is 25 pages. The Bill of Rights is a 1 page document. If you give a borrower a 25 page booklet and/or the Bill of Rights statement, it is likely that the borrower will not read the 25 page document but read the 1 page Bill of Rights.

To be clear, under the current Michigan law, the lender is required to distribute both documents under certain loan transactions. So is the argument that it would create a burden to distribute the additional 1 page document?

No one has yet to state any compelling reason why we should get rid of a consumer's right given to them under Michigan law. If a concern is that the language needs to be updated to be consistent with some of the changes the CFPB has made, then we are more than willing to sit down with all the parties and update the language. But having outdated language is no reason to eliminate a right.

I understand that the prevalent industry position might be that those fraudulent lending practices occurred in the past, the industry has fixed itself, the CFPB has set up certain standards, so there is no longer a need for the laws that were enacted to protect consumers during the crisis period. To the contrary, the laws should remain in place to ensure that we don't repeat the past mistakes.

Eliminating the Borrowers' Bill of Rights is not the answer. The Michigan Poverty Law Program opposes SB 578.

Thank you.

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